

Inventor: Philip F. Fox

Application No.: 09/502,701

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REMARKS

This Amendment After Final is submitted in reply to the Office Action mailed on March 8, 2006. In the Office Action, the Examiner rejected claims 19 and 44; objected to claims 20-22; and allowed claims 1-18 and 23-43. With this Amendment After Final, claim 19 is amended; claim 22 is canceled, and no new claims are added. Upon entry of this Amendment After Final, the above-identified application will include claims 1-21 and 23-44.

Though (A) claim 22 is canceled via this Amendment After Final and (B) independent claim 19 is amended in this Amendment After Final to incorporate details from dependent claim 22, Applicant continues to believe claim 19 and 22 are allowable, as originally presented in the above-identified application and as these claims existed prior to this present request to cancel or amend these claims, as applicable. Therefore, Applicant is canceling claim 22 and amending independent claim 19 without prejudice to Applicant's right to pursue claims worded like claims 19 and 22, as originally presented or as worded subsequent to original presentation, in a continuation application that is based on the above-identified application.

Also, as discussed below, Applicant understands the Examiner believes claims 20-22 are allowable and would be allowed upon being rewritten in independent form to include the features of all base (independent) claims and any intervening claims. In this Amendment After Final, Applicant is merely amending claim 19 to conform with the Examiner's suggestion that claim 22 be rewritten in independent form including all of the features of the base claim and any intervening claims. Consequently, Applicant respectfully requests entry and consideration of the amendment to claim 19 in accordance with 37 C.F.R. §1.116, since claim 19 is merely amended in accordance with the Examiner's suggestion in the present Office Action. Therefore, no new search is required as a result of this amendment of claim 19. Furthermore, one claim is being cancelled in this Amendment After Final and no new claims are being added in this Amendment After Final so this Amendment After Final is not increasing the total number of claims in the above-identified application.

Thus, in this Amendment After Final, Applicant is merely amending claim 19 to conform with the Examiner's suggestion that claim 22 be rewritten in independent form. The total number of claims in the above-identified application does not increase, relative to the number of claims present in the application as of the present Office Action, but instead decreases

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by one claim. Consequently, for the foregoing reasons, Applicant respectfully requests consideration and entry of this Amendment After Final in accordance with 37 C.F.R. §1.116, since the number of claims in the present application is not increasing and since the amendment of claim 19 does not require a new search and merely accommodates the Examiner's suggestion that claim 22 be rewritten in independent form to include the features of the base claim and any intervening claims.

Claim Rejection Under 35 U.S.C. §102(b) Based On The Wolniak Patent

In the Office Action, the Examiner rejected claim 19 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,827,658 to Wolniak (subsequently referred to as "the Wolniak patent"). According to the Examiner:

Wolniak shows a plurality of elongate shells 30 each having an interior surface that defines an elongate cavity. The lure as shown in Fig. 3 is ice fishing tackle which is positioned within the elongate cavity. Wolniak shows layers 21 and 26 of a panel of flotation material to hold the elongate tubes 30 in position. At least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface with the spacing structure effective to prevent slippage of the at least two elongate shells with respect to the spacing structure.

Despite the Examiner's comments in support of this rejection, the Wolniak patent does not disclose each and every detail required by claim 19 and therefore does not anticipate claim 19. Nonetheless, as indicated above, Applicant has amended claim 19 to incorporate the details of objected claim 22 into claim 19. This action is believed to moot the Examiner's rejection of claim 19 based on the Wolniak patent, since the Examiner did not reject claim 22 based on the Wolniak patent. Claim 19 is believed allowable over the Wolniak patent. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 19 based on the Wolniak patent under 37 C.F.R. §102(b) and that claim 19 be allowed.

Claim Rejection Under 35 U.S.C. §103(a) Based On The Wolniak Patent

In the Office Action, the Examiner rejected claim 44 under 35 U.S.C. §103(a) as based on the Wolniak patent. According to the Examiner:

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Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolniak. The patent to Wolniak shows a fishing tackle container as discussed above. Wolniak defines elongate shells having an interior surface which defines a cavity having a length. Wolniak does not disclose that the cavity has a length that is adequate to accept a portion of an ice fishing rod from the tip of the rod to the reel or line windup. At any rate, it would have been obvious to increase or decrease the length of the cavity to hold the type of fishing tackle desired to prevent an accidental discharge of the tackle at an inopportune time.

Despite the Examiner's comments in support of this rejection, the Wolniak patent does not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined by claim 44.

As noted above, claim 19 is believed allowable. Claim 44 is also believed allowable, since claim 44 depends from allowable claim 19. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 44 based on the Wolniak patent under 37 C.F.R. §103(a) and that claim 44 be allowed.

Claim Objections

In the Office Action, the Examiner objected to claims 20-22. According to the Examiner:

Claims 22 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

Despite the Examiner's comments in support of this objection, Applicant believes the underlying independent claim, namely claim 19 as written upon issuance of the present Office Action, is allowable, such that claims 20-22, as written upon issuance of the present Office Action, were also allowable, upon issuance of the present Office Action.

Nonetheless, as suggested by the Examiner, Applicant has rewritten claim 19 to include the features of objected to claim 22. Consequently, claim 19 is believed allowable. Claims 20 and 21 that depend from allowable claim 19 are also believed allowable. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the objections to claims 20 and 21 and that claims 20 and 21 be allowed.

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CONCLUSION

Applicant appreciates the Examiner's allowance of claims 1-18 and 23-43. Claims 19-21 and 44 are also believed allowable. Therefore, reconsideration and allowance of claims 19-21 and 44 is respectfully requested. The Examiner is invited to contact Applicant at the phone number indicated below to facilitate allowance of the above-identified application.

Respectfully submitted,

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